

REGULAR CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Regular Session on February 23, 2021 and due to COVID-19, some members attended virtually (v) at <https://www.cityofkyle.com/kyletv/kyle-10-live>; Spectrum 10 with the following persons present:

****Special Note**** This meeting was originally scheduled for February 16, 2021, but due to Winter Storm Uri 2021, the meeting was rescheduled to be conducted on this date, February 23, 2021.

Mayor Travis Mitchell	Tracy Scheel
Mayor Pro Tem Rick Koch	Peter Parcher
Council Member Dex Ellison (v)	Brandon James (v)
Council Member Yvonne Flores-Cale	Ina Spokas
Council Member Robert Rizo	
Council Member Ashlee Bradshaw	
Council Member Michael Tobias (v)	
Scott Sellers, City Manager	
James Earp, Assistant City Manager (v)	
Paige Saenz, City Attorney (v)	
Jerry Hendrix, Chief of Staff (v)	
Samantha Armbruster, Communications Dir.	
Jennifer Holm, City Secretary	
Leon Barba, City Engineer (v)	
Kathy Roecker, SWMP Administrator (v)	
Diana Torres, Economic Dev Director (v)	
Perwez Moheet, Finance Director (v)	
Sandra Duran, HR Director (v)	
Matt Dawson, IT Director	
Grant Bowling, Video Production Specialist	
Mariana Espinoza, PARD Director (v)	
Howard Koontz, Community Dev Director (v)	
Jeff Barnett, Chief of Police (v)	
Pedro Hernandez, Police Captain (v)	
Tim Griffith, Police Lieutenant (v)	
Catlyn Bone, Police Sergeant (v)	
April Machado, Lead Telecommunicator (v)	
Ashley Ferris, Emergency Comm. Supervisor (v)	
Krissi Milliken - Emergency Comm. Mgr. (v)	
Dago Pates, Police Officer Juv. Investigator (v)	
Harper Wilder, Director of Public Works (v)	
Tim Samford, Div. Mgr. - Treatment Ops. (v)	
Vinny Acevedo, Lead Inst. & Control Tech (v)	
Derrick Turley, Water Quality Technician (v)	
Warren Christian, Div. Mgr. Water Dist./WW (v)	
Randy Wendel, Pump & Motor Technician (v)	
Michael Bristol, Utility Foreperson (v)	
Jesse Olvera, Utility Technician II (v)	
Kim Norphy, Public Works Clerk (v)	

I. Call Meeting to Order

Mayor Mitchell called the meeting to order at 7:07 p.m. The Pledge of Allegiance was recited. Mayor Mitchell asked the city secretary to call roll.

Present were: Mayor Mitchell, Mayor Pro Tem Koch, Council Member Ellison, Council Member Flores-Cale, Council Member Rizo, Council Member Bradshaw, and Council Member Tobias. A quorum was present.

Mayor Mitchell stated that if there were no objections, he would like to postpone some of the presentations that do not have statutory deadlines until the next council meeting. There were none. He also stated that if there were no objections, he would like to take Item No. 25 up for discussion early in the meeting.

II. Approval of Minutes

1. City Council Special Meeting Minutes - February 2, 2021. ~ *Jennifer Holm, City Secretary*
2. City Council Meeting Minutes - February 2, 2021. ~ *Jennifer Holm, City Secretary*

Mayor Mitchell brought forward the minutes for discussion.

Council Member Rizo moved to approve the minutes of the February 2, 2021 Special Council Meeting and the minutes of the February 2, 2021 Council Meeting. Council Member Bradshaw seconded the motion. All votes aye; motion carried 7-0.

III. Citizen Comment Period with City Council

3. Members of the public that wish to provide citizen comment have the following options:
 1. In-Person at Kyle City Hall
 2. Virtual Attendance - Submit the online registration form found at: <https://www.cityofkyle.com/council/citizen-comment-sign>. Registration must be received by 12 p.m. on the day of the meeting.

Mayor Mitchell opened citizen comments at 7:10 p.m.

Tracy Scheel was called to speak as registered. She thanked the leadership of the City, along with Council and department heads for their work during the snow event last week. She stated that the leadership stepped up to make it as bearable as it could be. Ms. Scheel continued that the texts and phone calls were amazing, with residents literally being in the dark, those were very helpful. She asked Mr. Sellers to mention during City Manager's Report how people can sign up for those alerts.

Peter Parcher was called to speak as registered. He echoed Ms. Scheel's statements. He spoke about the Emergency Response Team. He spoke about their thirty volunteers ready to go in the event of an emergency. Mr. Parcher said he hopes Council will consider placing the Kyle Veteran's Day Parade on the Agenda. Council Member Rizo also thanked Mr. Parcher for his work during the storm.

With no one else wishing to speak, Mayor Mitchell closed citizen comments at 7:14 p.m.

25. Discussion and Possible Action to Recognize Kyle City Employees for their Extraordinary Efforts During Winter Storm Uri. ~ *Rick Koch, Mayor Pro Tem.*

Mayor Mitchell brought forward Item No. 25 for discussion out of order, after Citizen Comments, and gave the floor to Mayor Pro Tem Koch, who presented the item. Many stories were shared about the events and contributions of the community, to include businesses, organizations, community members, City of Kyle employees, and Council. No action was taken.

IV. Appointments

4. Consider nomination and take action for appointment to the Planning and Zoning Commission to fill unexpired term. ~ *Howard J. Koontz, Director of Planning and Community Development*

- Brandon James (Seat 6)

Mayor Mitchell brought forward Item No. 4 for discussion. Mr. Koontz presented the item. Mr. Brandon James introduced himself and provided background information.

Council Member Ellison moved to approve the nomination of Brandon James to Seat 6 of the Planning and Zoning Commission to fill unexpired term. Council Member Rizo seconded the motion.

There was discussion on the motion. Council Member Ellison asked how many applicants there were for the position. Mr. Koontz stated there were 13. Council Member Ellison asked how many were interviewed. Mr. Koontz stated there were six, but only five were actually interviewed. Council Member Ellison then asked why they chose to interview six. Mr. Koontz stated that the amount of experience documented set these apart. Council Member Ellison asked who decided on interviewing six. Mr. Koontz stated it was the Mayor, City Manager, Chair of Planning & Zoning, and himself. Mr. Koontz elaborated that his staff in Community Development created the "short list". Council Member Ellison spoke about his own service on the Planning & Zoning Commission, that when he applied, he had no experience; his experience is in banking and finance. He stated that it is a different time that there were 13 applicants, for one, and that the applicants came with applicable experience. Council Member Ellison asked Mr. Koontz what his staff was looking for in creating a short list. Mr. Koontz stated, professional experience, prior experience in group settings and other boards and commissions, outside commitments, knowledge of real estate, and experience related to the subject matter. Council Member Ellison stated that he likely would not have been granted an interview based on these criteria, as well as perhaps some of his colleagues on council and other previous amazing Planning and Zoning Commissioners. He asked whether there is a set criterion for applicants who want to serve on Planning & Zoning. Council Member Ellison cautioned the use of professional experience as a narrowing tool before applicants are even interviewed. He stated that he struggles with that. He then asked whether outside of that there was any reason to reduce the number of interviews. Mr. Koontz stated that due to the time frame of getting these confirmed, at the time, on February 16, they took the six that they thought were most likely to get the position. Council Member Ellison asked what Mr. Koontz meant by that. Mr. Koontz went into detail about qualifications of these applicants having experience to perform the tasks of the position. Mr. Sellers spoke about the 2015 decision on how to select members of boards and commissions. Prior to that time, there was not a great understanding of qualifications for applicants to serve. The current policy allows for the Chair of the board and commission to create that criteria. Mayor Mitchell spoke about having served on the appointment board for Parks Board in

the past and the board would ask the applicant to name all the parks in the City for the purpose of establishing interest and general knowledge about the position for which they are applying. He continued that with this policy, it was the intention to take out as much politics as possible. They would also try to gauge the applicant's temperament. He stated that Council could bring back the policy to amend it and require an interview for every applicant. Council Member Ellison stated that in 2015 the City was definitely in a different place and they could never have known that there would be so much interest. He stated that the minimum qualifications are there for residents to see, so perhaps they didn't put their engineering experience. He also wants to ensure that other applicants who are not selected are informed of the status of their application. He believes that the four that are on the interview board should be the ones to reduce the list of applicants. He would like to clarify that this is not about Brandon James, he believes he is qualified, enthusiastic and will be a great asset to the Commission. Council Member Flores-Cale asked whether Council Member Ellison would have been happy if the board had interviewed all 13 applicants. Council Member Ellison stated yes, he would be satisfied had all applicants been interviewed. Council Member Flores-Cale asked whether applicants were followed up with. Council Member Ellison stated that it has not been consistent.

All votes aye; motion carried 7-0.

5. Consider nominations and take possible action for reappointment to the Kyle Parks and Recreation Board to fill expired terms. ~ *Mariana Espinoza, Director of Parks & Recreation*
 - Roman Wommack (Seat 4)
 - Victor Medina (Seat 6)

Mayor Mitchell brought forward Item No. 5 for discussion. Ms. Espinoza presented the item. Both nominees were available virtually. There were no questions.

Mayor Mitchell moved to approve the reappointment of Roman Wommack to Seat 4 and Victor Medina to Seat 6 on the Kyle Parks and Recreation Board to fill expired terms. Council Member Flores-Cale seconded the motion. All votes aye; motion carried 7-0.

After the vote, Council Member Rizo asked whether the other two applicants were contacted. Ms. Espinoza affirmed.

V. Presentation

6. President George Washington Day Proclamation. ~ *Travis Mitchell, Mayor*

This item was postponed.

7. Presentation on Parks and Recreation Department Annual Report and Upcoming Programs and Activities ~ *Mariana Espinoza, Director of Parks & Recreation.*

This item was postponed.

8. Kyle Area Senior Zone Presentation. ~ *Larry Simone, President*

This item was postponed.

9. Presentation of the 2020 Annual Racial Profiling Report. ~ *Jeff Barnett, Chief of Police*

Mayor Mitchell brought forward Item No. 9 for discussion. Chief Barnett presented the item. Council Member Ellison requested this item be brought back next Council meeting for further discussion. There were no objections. No action was taken.

10. Emergency Cash Assistance Program "ECAP" Report. ~ *Barbara Thompson, Greater San Marcos Partnership*

This item was postponed.

11. CIP/Road Projects and Consent Agenda Presentation. ~ *Travis Mitchell, Mayor*

Mayor Mitchell brought forward Item No. 11 for discussion. Mr. Barba presented the updates and consent agenda items. No action was taken.

VI. Consent Agenda

Mayor Mitchell brought forward the Consent Agenda and stated that Item No. 16 was requested to be pulled by the applicant.

12. Approve Amendment No. 3 to LJA ENGINEERING, INC., Austin, Texas, in the amount of \$11,702.00 increasing the total contract amount not to exceed \$244,682.91 for the Schlemmer & Porter St. Wastewater Project. ~ *Leon Barba, P.E., City Engineer*
13. Approve Amendment No. 9 to ESPEY CONSULTANTS, INC. dba RPS, Austin, Texas, in the amount of \$79,481.00 for a total contract amount not to exceed \$1,010,481.85 for additional engineering services associated with the Southside Wastewater Improvements Project. ~ *Leon Barba, P.E., City Engineer*
14. Approve the conveyance of a 15 foot wastewater line easement to the City of Kyle from Mountain Plum, Ltd. ~ *Leon Barba, P.E., City Engineer*
15. Approve the conveyance of two (2) 15 foot wastewater line easements to the City of Kyle from Majestic Kyle, LLC. ~ *Leon Barba, P.E., City Engineer*
16. Assignment of Agreement Regarding Roadway and Drainage Improvements – Spooner Tract between the City of Kyle and Sandera Land Development Company, LLC. ~ *J. Scott Sellers, City Manager*
17. Plum Creek Phase 1, Section 7B - Final Plat (SUB-20-0132) 23.492 acres; 2 mixed-use lots for property located north and along Kohler's Crossing, east of and along existing and future Marketplace Ave. ~ *Howard J. Koontz, Director of Planning and Community Development*

Planning and Zoning Commission voted 6-0 to approve the final plat.

18. Plum Creek Uptown Central Park - Final Plat (SUB-20-0164) 1.672 acres; 1 lot for property located approximately 580-feet north of Doherty. ~ *Howard J. Koontz, Director of Planning and Community Development*

Planning and Zoning Commission voted 6-0 to approve the final plat.

Council Member Rizo moved to approve Consent Agenda Item Nos. 12, 13, 14, 15, 17, and 18. Mayor Pro Tem Koch seconded the motion. All votes aye; motion carried 7-0.

VII. Consider and Possible Action

19. *(First Reading)* An Ordinance of the City of Kyle, Texas, Amending the City of Kyle Code of Ordinances; Amending Chapter 29, "Sign Standards And Permits", to Amend the Definition of Billboard; Amending Provisions Related to Prohibited Signs; Establishing Maximum Size and Height of Signs; Providing a Severability Clause; Providing an Effective Date; and Providing for Related Matters. ~ *Paige Saenz, City Attorney*

Mayor Mitchell brought forward Item No. 19 for discussion. Ms. Saenz presented the item.

Council Member Rizo moved to approve an Ordinance of the City of Kyle, Texas, Amending the City of Kyle Code of Ordinances; Amending Chapter 29, "Sign Standards And Permits", to Amend the Definition of Billboard; Amending Provisions Related to Prohibited Signs; Establishing Maximum Size and Height of Signs; Providing a Severability Clause; Providing an Effective Date; and Providing for Related Matters. Council Member Flores-Cale seconded the motion. All votes aye; motion carried 7-0.

After the conclusion of Item No. 24, Mayor Mitchell asked whether there were any objections to having Item No. 19 finally passed. There were none.

20. *[POSTPONED 2/2/2021] (First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, to rezone approximately 19.5 acres of land from Retail Service District 'RS' to Multi-Family Residential-3 'R-3-3' for property located at 5492 Kyle Center Drive, in Hays County, Texas. (DDR DB Kyle LP - Z-20-0069) ~ *Howard J. Koontz, Director of Planning and Community Development*

Planning and Zoning Commission voted 5-1 to deny the request.

- Public Hearing

Mayor Mitchell brought forward Item No. 20 for discussion. He asked Mr. Sellers if it was to be postponed again. Mr. Sellers affirmed.

Mayor Mitchell opened the public hearing at 9:04 p.m. With no one wishing to speak, Mayor Mitchell kept the public hearing open at 9:04 p.m.

Mayor Mitchell moved to postpone to the next regularly scheduled City Council Meeting. Mayor Pro Tem Koch seconded the motion. All votes aye; motion carried 7-0.

21. *(First Reading)* An ordinance amending Chapter 53 (Zoning) for City of Kyle, Texas, for the purpose of assigning original zoning to approximately 29.8 acres of land from Agriculture 'AG' to Single Family Residential-3 'R-1-3' for property located southeast of Lehman Road and south of Lehman High School, in Hays County, Texas. (Clayton Properties Group, Inc D/B/A Brohn Homes - Z-21-0070) ~ *Howard J. Koontz, Director of Planning and Community Development*

Planning and Zoning Commission voted 5-1 to approve the request.

- Public Hearing

Mayor Mitchell brought forward Item No. 21 for discussion. Mr. Koontz presented the item.

Mayor Mitchell opened the public hearing at 9:06 p.m. With no one wishing to speak, Mayor Mitchell closed the public hearing at 9:06 p.m.

Mayor Mitchell moved to approve an Ordinance amending Chapter 53 (Zoning) for City of Kyle, Texas, for the purpose of assigning original zoning to approximately 29.8 acres of land from Agriculture 'AG' to Single Family Residential-3 'R-1-3' for property located southeast of Lehman Road and south of Lehman High School, in Hays County, Texas. (Clayton Properties Group, Inc D/B/A Brohn Homes - Z-21-0070) Council Member Bradshaw seconded the motion.

There was discussion on the motion. Mayor Mitchell stated this item will be back for second reading.

Motion carried 6-1 with Council Member Flores-Cale dissenting.

22. A Resolution of Support for a Housing Tax Credit Application for The Katherine, a 55+ Affordable Rental Housing Development, and Commitment of Development Funding by a Local Political Subdivision. ~ *Robert Rizo, Council Member*

Mayor Mitchell brought forward Item No. 22 for discussion and gave the floor to Council Member Rizo. Ms. Ina Spokas presented the item.

Council Member Rizo moved to approve a Resolution of Support for a Housing Tax Credit Application for The Katherine, a 55+ Affordable Rental Housing Development, and Commitment of Development Funding by a Local Political Subdivision. Council Member Flores-Cale seconded the motion.

There was discussion on the motion. Council Member Ellison stated that he would be supportive in another part of the city other than the proposed area in discussion. Council Member Flores-Cale asked whether she might find a more appropriate location. Ms. Spokas spoke about the economics of affordable housing. Council Member Bradshaw asked for clarification that Council could still change their direction after this letter of support. Mayor Mitchell stated that yes Council could change direction, but the pressure would be high to vote yes after this first yes vote. Council Member Ellison stated that this is the reason he will be voting no.

Mayor Mitchell requested a roll call vote. Council Member Rizo voted aye; Council Member Bradshaw voted aye; Council Member Ellison voted nay; Council Member Tobias voted nay; Mayor Pro Tem Koch voted nay; Council Member Flores-Cale voted aye; and Mayor Mitchell voted nay.

Motion failed 3-4.

23. Consider & Possible Action to Direct the Planning & Zoning Commission to Revise the CBD 1 & CBD 2 zoning codes. ~ *Dex Ellison & Michael Tobias, Council Members*

Mayor Mitchell brought forward Item No. 23 for discussion and gave the floor to Council Members Ellison and Tobias.

Mayor Mitchell moved to approve. Mayor Pro Tem Koch seconded the motion. Motion carried 6-1 with Council Member Rizo dissenting.

24. *(First Reading)* An Ordinance of the City of Kyle, Texas Regulating Sex Offender Residency within the City and Establishing Child Safety Zones; Amending Chapter 23 of the Code of Ordinances Entitled "Miscellaneous Offenses" by adding Article XI to be Entitled "Child Safety Zones;" Making it Unlawful for Certain Sex Offenders to Reside within 1500 feet of Premises where Children Commonly Gather; Providing Exceptions to the Ordinance; Prohibiting Property Owners from Renting Real Property to Certain Sex Offenders; Providing Penalties for Violations of the Ordinance; Repealing Ordinances or Parts of Ordinances in Conflict Therewith; Providing a Severability Clause, Findings of Fact and Providing for Open Meetings. ~ *Jeff Barnett, Chief of Police*

Mitchell brought forward Item No. 24 for discussion. Mayor Mitchell stated that if there were no objections, he would like to postpone this item. The item was postponed.

VIII. City Manager's Report

26. Update on various capital improvement projects, road projects, building program, and/or general operational activities where no action is required. ~ *J. Scott Sellers, City Manager*
- Great Texas River Cleanup - March 6th
 - COVID Testing and Vaccine info

Mr. Sellers spoke about the Great Texas River Cleanup scheduled on March 6th. Mr. Sellers said volunteers for the event are needed and anyone can sign-up to volunteer at cityofkyle.com/cleanup. He also spoke about COVID Testing and Vaccine information. Mr. Sellers provided information regarding the Warn Central Texas Emergency Alert system through Everbridge for alerts on mobile devices.

IX. Executive Session

27. Pursuant to Chapter 551, Texas Government Code, the City Council reserves the right to convene into Executive Session(s) from time to time as deemed necessary during this meeting. The City Council may convene into Executive Session pursuant to any lawful exception contained in Chapter 551 of the Texas Government Code including any or all of the following topics.
1. Pending or contemplated litigation or to seek the advice of the City Attorney pursuant to Section 551.071.
 - Pipeline Ordinance
 - City Lights and Kyle Marketplace Subdivision/Development

- Zoning Application Process
 - Plum Creek Land Dedication
 - Water Well Agreement
 - Texas Lehigh Lease
 - Parks Bond Interlocal Agreement with Hays County
 - 104 S. Burleson
 - Tax Credit Housing
2. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072.
 - Plum Creek Land Dedication
 3. Personnel matters pursuant to Section 551.074.
 4. Convene into executive session pursuant to Section 551.087, Texas Government Code, to deliberate regarding the offer of economic incentives to one or more business prospects that the City seeks to have locate, stay, or expand in or near the City.
 - 104 S. Burleson
 - Project Space Shuttle

Council Member Bradshaw read into the record, "Pursuant to Chapter 551, Texas Government Code, the City Council reserves the right to convene into Executive Session(s) from time to time as deemed necessary during this meeting. The City Council may convene into Executive Session pursuant to any lawful exception contained in Chapter 551 of the Texas Government Code including any or all of the following topics: Plum Creek Land Dedication, Texas Lehigh Lease, Parks Bond Interlocal Agreement with Hays County, 104 S. Burleson."

The City Council convened into executive session at 10:46 p.m.


28. Take action on items discussed in Executive Session.

Mayor Mitchell called the meeting back to order at 11:30 p.m. Mayor Mitchell announced that no action took place in Executive Session and no action would be taken now.

X. Adjourn

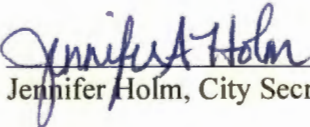
Mayor Mitchell moved to adjourn. Council Member Rizo seconded the motion. All votes aye; motion carried 4-0. Council Members Ellison, Flores-Cale, and Tobias were absent for the vote.

With no further business to discuss, the City Council adjourned at 11:31 p.m.



Travis Mitchell, Mayor

Attest:



Jennifer Holm, City Secretary